HOUSE BILL No. 1820

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10-8; IC 5-10.2-4.

Synopsis: Pension benefits and retiree health insurance. Deletes the provision under which a surviving spouse's eligibility to continue health insurance coverage formerly held by a retired state or local employee terminates two years after the death of the retired employee. Provides that retirement benefits for members of the public employees' retirement fund (PERF) and the Indiana state teachers' retirement fund (TRF) are based on the three years of service (rather than five years of service) in which the member's compensation was highest. Increases the multiplier used in computing PERF and TRF benefits from 1.1% to 1.5%. Provides that for purposes of determining a TRF member's pension benefits, the member's "annual compensation" includes the additional amount that would have been paid to the member under the member's employment contract if the member had not taken unpaid leave of absence during the year to serve in the general assembly. Increases the amount of severance pay included in the determination of final average salary for purposes of computing PERF and TRF benefits from $2,000 to $5,000.

Effective: July 1, 2001.

Tincher

January 17, 2001, read first time and referred to Committee on Ways and Means.

Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1820

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-10-8-2.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.6. (a) This section applies only to local unit public employers and their employees. This section does not apply to public safety employees, surviving spouses, and dependents covered by section 2.2 of this chapter.

(b) A public employer may provide programs of group insurance for its employees and retired employees. The public employer may, however, exclude part-time employees and persons who provide services to the unit under contract from any group insurance coverage that the public employer provides to the employer's full-time employees. A public employer may provide programs of group insurance under this section through either or both of the following methods:

(1) By purchasing policies of group insurance.

(2) By establishing self-insurance programs.

However, the establishment of a self-insurance program is subject to the approval of the unit's fiscal body.

(c) A public employer may pay a part of the cost of group insurance, but shall pay a part of the cost of group life insurance for local employees. A public employer may pay, as supplemental wages, an amount equal to the deductible portion of group health insurance as long as payment of the supplemental wages will not result in the payment of the total cost of the insurance by the public employer.

(d) An insurance contract for local employees under this section may not be canceled by the public employer during the policy term of the contract.

(e) After June 30, 1986, a public employer shall provide a group health insurance program under subsection (g) to each retired employee:

(1) whose retirement date is:

(A) after May 31, 1986, for a retired employee who was a teacher (as defined in IC 20-6.1-1-8) for a school corporation; or

(B) after June 30, 1986, for a retired employee not covered by clause (A);

(2) who will have reached fifty-five (55) years of age on or before the employee's retirement date but who will not be eligible on that date for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.;

(3) who will have completed twenty (20) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which must have been completed immediately preceding the retirement date; and

(4) who will have completed at least fifteen (15) years of participation in the retirement plan of which the employee is a member on or before the employee's retirement date.

(f) A group health insurance program required by subsection (e) must be equal in coverage to that offered active employees and must permit the retired employee to participate if the retired employee pays an amount equal to the total of the employer's and the employee's premiums for the group health insurance for an active employee and if the employee, within ninety (90) days after the employee's retirement date files a written request with the employer for insurance coverage. However, the employer may elect to pay any part of the retired employee's premiums.

(g) A retired employee's eligibility to continue insurance under subsection (e) ends when the employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program. A retired employee who is eligible for insurance coverage under subsection (e) may elect to have the employee's spouse covered under the health insurance program at the time the employee retires. If a retired employee's spouse pays the amount the retired employee would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired employee. The surviving spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

~~(3) Two (2) years after the date of the employee's death.~~

~~(4)~~ **(3)** The date of the spouse's remarriage.

(h) This subsection does not apply to an employee who is entitled to group insurance coverage under IC 20-6.1-6-1(c). An employee who is on leave without pay is entitled to participate for ninety (90) days in any group health insurance program maintained by the public employer for active employees if the employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance. However, the employer may pay all or part of the employer's premium for the insurance.

(i) A public employer may provide group health insurance for retired employees or their spouses not covered by subsections (e) through (g) and may provide group health insurance that contains provisions more favorable to retired employees and their spouses than required by subsections (e) through (g). A public employer may provide group health insurance to an employee who is on leave without pay for a longer period than required by subsection (h), and may continue to pay all or a part of the employer's premium for the insurance while the employee is on leave without pay.

SECTION 2. IC 5-10-8-8, AS AMENDED BY P.L.233-1999, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) This section applies only to the state and its employees who are not covered by a plan established under section 6 of this chapter.

(b) After June 30, 1986, the state shall provide a group health insurance plan to each retired employee:

(1) whose retirement date is:

(A) after June 29, 1986, for a retired employee who was a member of the field examiners' retirement fund;

(B) after May 31, 1986, for a retired employee who was a member of the Indiana state teachers' retirement fund; or

(C) after June 30, 1986, for a retired employee not covered by clause (A) or (B);

(2) who will have reached fifty-five (55) years of age on or before the employee's retirement date but who will not be eligible on that date for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.;

(3) who will have completed twenty (20) years of creditable employment with a public employer on or before the employee's retirement date, ten (10) years of which shall have been completed immediately preceding the retirement; and

(4) who will have completed at least fifteen (15) years of participation in the retirement plan of which the employee is a member on or before the employee's retirement date.

(c) The state shall provide a group health insurance program to each retired employee:

(1) who is a retired judge;

(2) whose retirement date is after June 30, 1990;

(3) who is at least sixty-two (62) years of age;

(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(5) who has at least eight (8) years of service credit as a participant in the Indiana judges' retirement fund, with at least eight (8) years of that service credit completed immediately preceding the judge's retirement.

(d) The state shall provide a group health insurance program to each retired employee:

(1) who is a retired participant under the prosecuting attorneys retirement fund;

(2) whose retirement date is after January 1, 1990;

(3) who is at least sixty-two (62) years of age;

(4) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(5) who has at least ten (10) years of service credit as a participant in the prosecuting attorneys retirement fund, with at least ten (10) years of that service credit completed immediately preceding the participant's retirement.

(e) The state shall make available a group health insurance program to each former member of the general assembly or surviving spouse of each former member, if the former member:

(1) is no longer a member of the general assembly;

(2) is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq. or, in the case of a surviving spouse, the

surviving spouse is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395, et. seq.; and

(3) has at least ten (10) years of service credit as a member in the general assembly.

A former member or surviving spouse of a former member who obtains insurance under this section is responsible for paying both the employer and the employee share of the cost of the coverage.

(f) The group health insurance program required under subsections (b) through (e) must be equal to that offered active employees. The retired employee may participate in the group health insurance program if the retired employee pays an amount equal to the employer's and the employee's premium for the group health insurance for an active employee and if the retired employee within ninety (90) days after the employee's retirement date files a written request for insurance coverage with the employer. However, the employer may elect to pay any part of the retired employee's premium.

(g) A retired employee's eligibility to continue insurance under this section ends when the employee becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program. A retired employee who is eligible for insurance coverage under this section may elect to have the employee's spouse covered under the health insurance program at the time the employee retires. If a retired employee's spouse pays the amount the retired employee would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired employee. The surviving spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

~~(3) Two (2) years after the date of the employee's death.~~

~~(4)~~ **(3)** The date of the spouse's remarriage.

(h) This subsection does not apply to an employee who is entitled to group insurance coverage under IC 20-6.1-6-1(c). An employee who is on leave without pay is entitled to participate for ninety (90) days in any health insurance program maintained by the employer for active employees if the employee pays an amount equal to the total of the employer's and the employee's premiums for the insurance.

(i) An employer may provide group health insurance for retired employees or their spouses not covered by this section and may provide group health insurance that contains provisions more favorable to retired employees and their spouses than required by this section. A public employer may provide group health insurance to an employee who is on leave without pay for a longer period than required by subsection (h).

SECTION 3. IC 5-10.2-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) Except as provided in subsection (e), in computing the retirement benefit for a nonteacher member, "average of the annual compensation" means the average annual compensation calculated using the ~~twenty (20)~~ **twelve (12)** calendar quarters of service in a position covered by the retirement fund before retirement in which the member's annual compensation was the highest. However, in order for a quarter to be included in the ~~twenty (20)~~ **twelve (12)** calendar quarters, the nonteacher member must have performed service throughout the calendar quarter. All ~~twenty (20)~~ **twelve (12)** calendar quarters do not have to be continuous but they must be in groups of four (4) consecutive calendar quarters. The same calendar quarter may not be included in two (2) different groups.

(b) In computing the retirement benefit for a teacher member, "average of the annual compensation" means the average annual compensation for the ~~five (5)~~ **three (3)** years of service before retirement in which the member's annual compensation was highest. In order for a year to be included in the ~~five (5)~~ **three (3)** years, the teacher member must have received for the year credit under IC 21-6.1-4-2 for at least one-half (1/2) year of service. The ~~five (5)~~ **three (3)** years do not have to be continuous.

(c) Subject to IC 5-10.2-2-1.5 "annual compensation" means the basic salary earned by and paid to the member plus:

(1) the amount that would have been part of that salary but for:

~~(1)~~ **(A)** the state's, a school corporation's, a participating political subdivision's, or a state educational institution's (as defined in IC 20-12-0.5-1) paying the member's contribution to the fund for the member; or

~~(2)~~ **(B)** the member's salary reduction agreement established under Section 125, 403(b), or 457 of the Internal Revenue Code; **and**

(2) in the case of a member of the Indiana state teachers' retirement fund who:

(A) is a teacher;

(B) while serving as a teacher took an unpaid leave of absence of any type during any year to serve in the general assembly; and

(C) retires after June 30, 2001;

the additional amount that would have been paid to the member during the year under the member's employment contract if the member had not taken the unpaid leave of absence.

The portion of a back pay award or a similar award that the board determines is compensation under an agreement or under a judicial or an administrative proceeding shall be allocated by the board among the years the member earned or should have earned the compensation. Only that portion of the award allocated to the year the award is made is considered to have been earned during the year the award was made. Interest on an award is not considered annual compensation for any year.

(d) Compensation of no more than ~~two~~ **five** thousand dollars ~~($2,000)~~ **($5,000)** received from the employer in contemplation of the member's retirement, including severance pay, termination pay, retirement bonus, or commutation of unused sick leave or personal leave, may be included in the total annual compensation from which the average of the annual compensation is determined, if it is received:

(1) before the member ceases service; or

(2) within twelve (12) months after the member ceases service.

(e) This section applies to a member of the general assembly:

(1) who is a participant in the legislators' retirement system established under IC 2-3.5;

(2) who is also a member of the public employees' retirement fund or the state teachers' retirement fund; and

(3) whose years of service in the general assembly may not be considered in determining the average of the annual compensation under this section, as provided in IC 2-3.5-1-2(b)(2) or IC 2-3.5-3-1(c).

The board shall use the board's actuarial salary increase assumption to project the salary for any previous year needed to determine the average of the annual compensation.

SECTION 4. IC 5-10.2-4-4, AS AMENDED BY P.L.195-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The computation of benefits under this section is subject to IC 5-10.2-2-1.5.

(b) For retirement benefits payable on and after July 1, 1975, for a member retired on and after January 1, 1956, the pension (p) is computed as follows:

STEP ONE: Multiply ~~one and one-tenths percent (1.1%)~~ **the applicable percentage (ap) determined under section 4.5 of**

this chapter times the average of the annual compensation (aac) and obtain a product.

STEP TWO: To obtain the pension, multiply the STEP ONE product by the total creditable service (scr) completed by the member on ~~his~~ **the member's** retirement date.

Expressed mathematically:

p = ~~(.011)~~ **(ap)** times (aac) times (scr)

(c) Unless the member has chosen a lump sum payment under section 2 of this chapter or elects to defer receiving in any form the member's annuity savings account under section 2(c) of this chapter, the annuity is the amount purchasable on the member's retirement date by the amount credited to the member in the annuity savings account. The amount purchasable is based on actuarial tables adopted by the board under IC 5-10.2-2-10 at an interest rate determined by the board.

SECTION 5. IC 5-10.2-4-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 4.5. The applicable percentage referred to in section 4(b) of this chapter is:**

(1) one and one-tenth percent (1.1%) for a member who retires before July 1, 2001; and

(2) one and five-tenths percent (1.5%) for a member who retires after June 30, 2001.

SECTION 6. [EFFECTIVE JULY 1, 2001] **(a) IC 5-10.2-4-3 and IC 5-10.2-4-4, both as amended by this act, and IC 5-10.2-4-4.5, as added by this act, apply only to members of the public employees' retirement fund and the Indiana state teachers' retirement fund who retire after June 30, 2001.**

(b) IC 5-10-8-2.6 and IC 5-10-8-8, both as amended by this act, apply only to the surviving spouse of an employee who dies after June 30, 2001.